THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, 14th July, 2006

W.P.No.904 of 2000

Between:

Water Users' Association No.30, Kaikalur,
Krishna District, rep. by its President
Mudunuri Seetha Rama Raju ... Petitioner

and

The Superintending Engineer,
Irrigation Department, Vijayawada,
and others. ... Respondents

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ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the Proceedings of the 2nd respondent issued in Memo No.CB.IC.1/64, dated 11-1-2000 as arbitrary and illegal.

Under the impugned Order, permission for forming temporary cart track with 900 MM dia RCC pipes at M.3/0-077 of old Korlapadu channel (abandoned) was granted, subject to certain conditions. It is the case of the petitioner that without considering their objections and without hearing them, the impugned permission has been granted. Therefore, the same is liable to be set aside.

A detailed counter affidavit has been filed on behalf of respondents 1 to 3, wherein it is stated that the permission accorded is only to help the ayacutdars to cross the abandoned channel, based on their request. There is no irrigation under the said channel and it is an abandoned course. The ayacut at the crossing and also down stream side of the channel are being irrigated from different source i.e. with the pipe at M.0/2+262 R.B. of Bhairavapatnam channel. Therefore, the contention of the petitioner that the cart track will obstruct the free flow of water is baseless, as there is no water flowing through the abandoned channel.

In view of the assertions made in the counter affidavit, as noticed above, it is clear that the impugned Order was passed only on the request of the ayacutdars to cross the abandoned old Korlapadu channel. It is also denied by the respondents that the cart track will

obstruct the free flow of water. No reply affidavit is filed by the petitioner to the counter filed on behalf of respondents. In the light of the averments made in the counter, the Writ Petition is devoid of merits and is liable to be dismissed. Accordingly, the Writ Petition is dismissed. No order as to costs.

14-7-2006

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